



March 2, 1999

HOUSE BILL No. 1828

DIGEST OF HB 1828 (Updated February 23, 1999 8:48 pm - DI 96)

Citations Affected: IC 4-15; noncode.

Synopsis: State employee labor matters. Eliminates retention points as criteria for layoff and rehiring for state merit and nonmerit employees. Requires the state to compute military preference and length of service for determination of reduction in force for state employees. Eliminates the requirement that retention points be computed to determine the order of layoff within each county. Allows a state employee who is subject to layoff to displace another state employee with lower seniority within the same county, if the employee has higher seniority than the employee being displaced. Allows a state employee who has been laid off to have reemployment rights in any location within the state.

Effective: Upon passage; July 1, 1999.

Adams T, Saunders

January 26, 1999, read first time and referred to Committee on Labor and Employment.
March 1, 1999, amended, reported — Do Pass.

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March 2, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1828

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-15-2-18 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 18. (a) The rating of
3 each test shall be completed and the resulting list established not later
4 than thirty (30) days after the date on which the test was held, unless
5 such time is extended by the director for reasons which the director
6 shall record in the official records of the department. The final earned
7 rating of each person competing in any test shall be determined by the
8 weighted average of the earned ratings of the test, according to weights
9 for each phase established by the director in advance of the giving of
10 the test. The names of all persons attaining the minimum final earned
11 ratings established by the director in advance of the giving of the tests
12 shall be placed upon the eligible list in order of their ratings. The
13 names of persons who have indicated in writing that they are unwilling
14 to accept appointment may be dropped from the list. All persons
15 competing in any test shall be given written notice of their final earned
16 ratings. Statements of former employers of the applicants shall be
17 confidential. A manifest error in rating a test shall be corrected if called

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to the attention of the director, but such correction shall not invalidate any appointment previously made from such a list.

(b) In certification for appointment, in appointment, in reinstatement, and in reemployment in any state service, preference shall be given to former members of the military services of the United States who served on active duty in any branch of the armed forces and who at no time received a discharge or separation under other than honorable conditions, except corrected separation or discharge to read "honorable" as evidenced by appropriate records presented from the United States Department of Defense or appropriate branch of the military service.

(c) Preference shall be given in the following priorities:

(1) Former members of the military service who have established the present existence of a service connected disability of ten percent (10%) or more, as evidenced by records of the United States Department of Veterans Affairs or disability retirement benefits as evidenced by laws administered by the United States Department of Defense.

(2) The spouse of such service connected disabled veterans and the unremarried spouse of deceased veterans.

(3) Those former members of the military service who are wartime veterans.

(4) Veterans of the military service who served more than one hundred eighty-one (181) days on active duty, regardless of when served.

(d) In all written examinations to determine the qualifications of applicants for entrance into state service:

(1) ten (10) points shall be added to the earned rating of persons taking competitive examination under subsection (c)(1) or (c)(2);

(2) five (5) points shall be added to the earned ratings of persons taking competitive examination under subsection (c)(3); and

(3) two (2) points shall be added to the earned rating of persons taking competitive examination under subsection (c)(4).

(e) All points specified in subsection (d) shall be added to the total combined test scores of the person and shall not be allocated to any single feature or part of the competitive examination. Rating shall be based on a scale of one hundred (100) points as the maximum attainable.

(f) When veterans preference in state service employment is limited to wartime veterans, this subsection applies for the purpose of defining "war":

(1) World War II - December 7, 1941, to December 31, 1946.



(2) Korean Conflict - June 27, 1950, to January 31, 1955.

(3) Viet Nam Conflict - August 5, 1964, to May 7, 1975.

(4) Actual combat or duty equally hazardous, regardless of time, or service in any foreign war, insurrection, or expedition, which service is recognized by the award of a service or campaign medal of the United States.

(5) Participation as a regularly assigned crew member of any military craft in a mission in support of a military operation, regardless of time, as designated by the armed forces of the United States.

(g) Active duty consists of:

(1) ninety (90) days or more wartime service;

(2) ninety (90) days or more consecutive service which began or ended during wartime period;

(3) ninety (90) days or more combined service in two (2) or more wartime periods;

(4) service of less than ninety (90) days, if discharged for a disability in line of duty; or

(5) service qualifying under subsection (f)(4) or (f)(5), which must be documented by appropriate records of the United States Department of Defense.

(h) In examinations where experience is an element of qualification, time spent in the armed forces of the United States shall be credited in a veteran's rating where the veteran's actual employment in a similar vocation to that for which the veteran is examined was interrupted by such service. In all examinations to determine the qualifications of a veteran applicant, credit shall be given for all valuable experience, including experience gained in religious, civic, welfare, service, and organizational activities, regardless of whether any compensation was received for the experience.

(i) In determining qualifications for examination, appointment, promotion, retention, transfer, or reinstatement, with respect to preference eligibles, the department shall waive requirements as to age, height, and weight, if the requirement is not essential to the performance of the duties of the position for which examination is given. The department, after giving due consideration to the recommendation of any accredited physician, shall waive the physical requirements in the case of any veteran, if the veteran is, in the opinion of the director, physically able to discharge efficiently the duties of the position for which the examination is given. No minimum educational requirement may be prescribed in any civil service examination except for such scientific, technical, or professional positions, the duties of



1 which the department decides cannot be performed by a person who
 2 does not have such education. The director shall make a part of the
 3 department's public records the director's reasons for such decision.

4 (j) The names of preference eligibles shall be entered on the
 5 appropriate registers or lists of eligibles in accordance with their
 6 respective augmented ratings. The name of a preference eligible shall
 7 be entered ahead of all others having the same rating.

8 (k) The director shall adopt appropriate rules under IC 4-22-2 for
 9 the administration and enforcement of this section.

10 (l) In any reduction in personnel in any state service, competing
 11 employees shall be released in accordance with ~~board~~ regulations
 12 which shall ~~give due effect to tenure of employment, compute~~ military
 13 preference ~~and~~ length of **employment** service. ~~and efficiency ratings.~~
 14 The length of time spent in active service in the armed forces of the
 15 United States of each such employee shall be credited in computing
 16 length of total service. ~~Veteran's preference points shall be added to the~~
 17 ~~retention score of a preference eligible.~~ When any of the functions of
 18 any state agency are transferred to, or when any state agency is
 19 replaced by, some other state agency or agencies, all preference
 20 employees in the function or functions transferred or in the agency
 21 replaced shall first be transferred to the replacing agency or agencies
 22 for employment in positions for which they are qualified, before the
 23 agency or agencies appoint additional employees from any other
 24 sources for such positions.

25 (m) Any preference eligible who has resigned may, at the request of
 26 any appointing officer, be certified for and appointed to any position
 27 for which the preference eligible has been a regular employee in the
 28 state service.

29 (n) Any preference eligible who has been furloughed or separated
 30 without delinquency or misconduct, upon request, shall have the
 31 preference eligible's name placed on all appropriate registers and
 32 employment lists, for every position for which the preference eligible's
 33 qualifications have been established.

34 (o) Applicants claiming preference of their own service must submit
 35 either:

- 36 (1) original discharge or separation or certified copies or photostat
- 37 copies of the originals;
- 38 (2) an official statement from the United States Department of
- 39 Defense showing record of service; or
- 40 (3) an official statement from the United States Department of
- 41 Veterans Affairs supporting the claim for disability.

42 SECTION 2. IC 4-15-2-32 IS AMENDED TO READ AS

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FOLLOWS [Effective July 1, 1999] [EFFECTIVE JULY 1, 1999]: Sec. 32. (a) An appointing authority may lay-off employees in the classified service whenever it is deemed necessary, due to shortage of work or funds, or the abolishment of a position, or other material change in duties or organization. For purposes of this section, offices and positions of employment in each county where the division of service operates is considered one autonomous unit and lay-off procedures will apply within the county affected by the lay-off. When a lay-off is necessary, the appointing authority will determine in which class or classes the lay-off or lay-offs will occur, the number of employees to be laid off within each affected class, the county or counties where lay-offs are to occur and give written notice to the director a reasonable time before the effective date of the lay-off. The director, in accordance with the rules, shall compute ~~retention points to determine the order of lay-off within each county.~~ **seniority of the employees within the affected class who are to be laid off.** The ~~retention points~~ **seniority** will be computed as of the effective date of the lay-off and will reflect systematic consideration of ~~seniority, service ratings, length of state service and~~ **seniority, service ratings, length of state service and** veterans' preference status. ~~and employment status.~~ The director shall provide the appointing authority with a written notice containing the names and ~~retention points~~ **seniority** of employees to be laid off in each county, and such orders relating to the lay-off as deemed necessary to secure compliance with this section.

(b) Any employee in the classified service who has been notified of pending lay-off and who has permanent status in a lower class has the right, provided ~~they have more retention points,~~ **the employee has greater seniority** to displace within the same affected county, the employee with the least ~~retention points~~ **seniority** in that lower class. Any employee in the classified service who has permanent status in a lower class and is displaced by another employee has the right, provided ~~they have more retention points,~~ **the employee has greater seniority** to displace within the same affected county the employee with the least ~~retention points~~ **seniority** in that lower class. This procedure shall continue until the employee with the least ~~retention points~~ **seniority** in the lowest class, in the same affected county, of the same appointing authority has been reached, and if necessary, laid off. Should a layoff result in the closing of all offices in a county, any employee in the classified service who has been notified of pending lay-off and who has permanent status in the class from which they are laid off may, provided they have more ~~retention points,~~ **seniority**, displace within the division of service in any contiguous county the employee with the least ~~retention points~~ **seniority** in that class.



(c) Employees who have been reduced or laid off will be placed on appropriate ~~re-employment~~ **reemployment** lists in accordance with rules established by the director. Those employees with the highest ~~retention points~~ **seniority** in each affected class will be placed at the top of the list followed by employees ranked in descending order. An employee who is laid off will retain ~~re-employment~~ **reemployment** rights for a period of one (1) year from the lay-off date. During this one (1) year period, the appointing authority, for the division of service affected, shall not hire nor promote anyone into a class affected by the lay-off until all laid off employees on the ~~re-employment~~ **reemployment** list for that class have been reinstated or decline the position when it is offered. Employees who fail to respond within five (5) days, to a written offer sent to their last known address, will be deemed to have declined. Even though a lay-off applies only to affected counties, ~~re-employment~~ **reemployment** rights extend to all counties, and at the request of the laid off or reduced employee, ~~their~~ **the employee's** name will be placed on the appropriate ~~re-employment~~ **reemployment** list for any or all counties.

SECTION 3. IC 4-15-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. If a state employee's employment with a state agency is terminated because of governmental reorganization, the state agency or the personnel department shall assist him in locating employment with another state agency. When a same or similar position for which the terminated state employee is qualified becomes available with a state agency, he shall be given priority consideration in filling the position. However, if the position is a merit position, merit requirements **with reference to seniority** must be met.

SECTION 4. [EFFECTIVE UPON PASSAGE] (a) **Before December 31, 1999, the director shall amend 31 IAC 1-13-1, 31 IAC 2-12-5, and 31 IAC 2-12-6 to require consideration of an eligible former employee, for the same or similar vacant positions, to be based on the employee's seniority.**

(b) **This SECTION expires January 2, 2001.**

SECTION 5. **An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1828, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, line 11, strike "board".

Page 4, delete line 42, begin a new paragraph and insert:

"SECTION 2. IC 4-15-2-32 IS AMENDED TO READ AS FOLLOWS [Effective July 1, 1999] [EFFECTIVE JULY 1, 1999]: Sec. 32. (a) An appointing authority may lay-off employees in the classified service whenever it is deemed necessary, due to shortage of work or funds, or the abolishment of a position, or other material change in duties or organization. For purposes of this section, offices and positions of employment in each county where the division of service operates is considered one autonomous unit and lay-off procedures will apply within the county affected by the lay-off. When a lay-off is necessary, the appointing authority will determine in which class or classes the lay-off or lay-offs will occur, the number of employees to be laid off within each affected class, the county or counties where lay-offs are to occur and give written notice to the director a reasonable time before the effective date of the lay-off. The director, in accordance with the rules, shall compute ~~retention points to determine the order of lay-off within each county.~~ **seniority of the employees within the affected class who are to be laid off.** The ~~retention points~~ **seniority** will be computed as of the effective date of the lay-off and will reflect systematic consideration of ~~seniority, service ratings,~~ **length of state service and** veterans' preference status. ~~and employment status.~~ The director shall provide the appointing authority with a written notice containing the names and ~~retention points~~ **seniority** of employees to be laid off in each county, and such orders relating to the lay-off as deemed necessary to secure compliance with this section.

(b) Any employee in the classified service who has been notified of pending lay-off and who has permanent status in a lower class has the right, provided ~~they have more retention points,~~ **the employee has greater seniority** to displace within the same affected county, the employee with the least ~~retention points~~ **seniority** in that lower class. Any employee in the classified service who has permanent status in a lower class and is displaced by another employee has the right, provided ~~they have more retention points,~~ **the employee has greater seniority** to displace within the same affected county the employee with the least ~~retention points~~ **seniority** in that lower class. This procedure shall continue until the employee with the least ~~retention~~

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~~points seniority~~ in the lowest class, in the same affected county, of the same appointing authority has been reached, and if necessary, laid off. Should a layoff result in the closing of all offices in a county, any employee in the classified service who has been notified of pending lay-off and who has permanent status in the class from which they are laid off may, provided they have more ~~retention points~~, **seniority**, displace within the division of service in any contiguous county the employee with the least ~~retention points seniority~~ in that class.

(c) Employees who have been reduced or laid off will be placed on appropriate ~~re-employment~~ **reemployment** lists in accordance with rules established by the director. Those employees with the highest ~~retention points seniority~~ in each affected class will be placed at the top of the list followed by employees ranked in descending order. An employee who is laid off will retain ~~re-employment~~ **reemployment** rights for a period of one (1) year from the lay-off date. During this one (1) year period, the appointing authority, for the division of service affected, shall not hire nor promote anyone into a class affected by the lay-off until all laid off employees on the ~~re-employment~~ **reemployment** list for that class have been reinstated or decline the position when it is offered. Employees who fail to respond within five (5) days, to a written offer sent to their last known address, will be deemed to have declined. Even though a lay-off applies only to affected counties, ~~re-employment~~ **reemployment** rights extend to all counties, and at the request of the laid off or reduced employee, ~~their the~~ **employee's** name will be placed on the appropriate ~~re-employment~~ **reemployment** list for any or all counties.

Delete page 5.

Page 6, delete lines 1 through 22.

Page 6, line 31, after "seniority" delete "position".

Page 6, line 34, delete "commission" and insert "**director**".

Page 6, line 37, delete "position".

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1828 as introduced.)

LIGGETT, Chair

Committee Vote: yeas 10, nays 0.

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